

John Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jessica Lancaster, OSB No. 134151

Email: jessica.lancaster@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendant Walmart, Inc.

UNITED STATES DISTRICT COURT

DISTRICT OF OREGON

PORTLAND DIVISION

CANDICE LOGAN, an individual, and
SHANNON HEIDELBERG, an
individual,

Plaintiffs,

v.

WALMART INC., a Delaware
corporation, and JANE DOE, an
individual,

Defendants.

Case No. 20-cv-1617

**DEFENDANT'S NOTICE OF
REMOVAL**

JURY TRIAL REQUESTED

PLEASE TAKE NOTICE that, pursuant to 28 U.S.C. § 1441, § 1446, and § 1332(a), Defendant Walmart Inc. ("Defendant") removes this action from the Circuit Court of the State of Oregon for the County of Multnomah to the United States District Court for the District of Oregon, Portland Division.

RELEVANT FACTS

On August 28, 2020, Plaintiffs served Defendant with a Summons and Complaint

captioned *Candice Logan and Shannon Heidelberg v. Walmart Inc. and Jane Doe*, Case No. 20CV28874, filed in the Circuit Court for the State of Oregon in the County of Multnomah. *See* Declaration of Jessica M. Lancaster (“JML Decl.”), ¶ 2. Copies of the Summons, Complaint, and Affidavit of Service on Defendant are attached hereto as Exhibits A, B, and C, respectively. *Id.* At the time of service of the Summons and Complaint, Plaintiffs had Defendant served with Plaintiff’s First Request for Production of Documents to Defendant and Notice of Intention to Take Videotaped Depositions of Defendant Walmart Inc.’s Employees. Copies of those documents are attached as Exhibits D and E to the JML Decl. *Id.* These documents, taken together, constitute all process, pleadings, and orders served on Defendant in that action up to the present date. *Id.*

GROUND FOR REMOVAL

Pursuant to 28 U.S.C. § 1441(a), a defendant may remove an action filed in the state court to the United States District Court if the district court has diversity jurisdiction over the action. This action is one over which the district court has diversity jurisdiction under 28 U.S.C. § 1332(a)(1). The grounds for removal of this action are:

1. Plaintiffs’ principle claims for relief against Defendant exceed \$75,000. Plaintiffs seek non-economic damages of \$55,000. Complaint ¶¶ 7,12. Plaintiffs have made allegations of discrimination in a place of public accommodation under ORS 659A.400. *Id.* at ¶ 11. Pursuant to ORS 659A.885(8)(d), if Plaintiffs prevail on their claims, Defendants would be responsible for Plaintiffs’ attorney fees, which, in addition to the \$55,000 in damages sought by Plaintiffs in their Complaint, would surpass the \$75,000 threshold. JML Decl., ¶ 5; 28 U.S.C. § 1332(a).

2. Plaintiffs and Defendant are residents of different states. Defendant is a Delaware corporation that is headquartered with its principal place of business in Arkansas. *See* Defendant’s Corporate Disclosure Statement (being filed concurrently); JML Decl., ¶ 3. Based on understanding and belief, Plaintiffs are Oregon residents. *Id.* at 4. As for Defendant Jane Doe, in determining citizenship for purposes of diversity, defendants sued under fictitious names are

disregarded. 28 U.S.C. § 1441(b)(1). Therefore, the United States District Court has diversity jurisdiction pursuant to 28 U.S.C. § 1332(a)(1).

3. This Notice of Removal is timely pursuant to 28 U.S.C. § 1446(b), as less than 30 days have elapsed since copies of the Summons and Complaint were served on Defendant. A copy of the Service of Process Transmittal received from Defendant's authorized registered agent for service of process and the Affidavit of Service submitted by Plaintiffs' process server are collectively attached hereto as Exhibit C. JML Decl., ¶ 2.

4. No further proceedings have occurred in the Circuit Court of the State of Oregon for the County of Multnomah as of the date of this removal other than outlined herein.

5. Counsel for Defendant will file a copy of this Notice of Removal with the Clerk of the Circuit Court of the State of Oregon for the County of Multnomah and will give notice of the same to Plaintiff as required by 28 U.S.C. § 1446(d).

WHEREFORE, Defendant Walmart, Inc. prays that this action be removed from the Circuit Court for the State of Oregon for the County of Multnomah and placed on the docket of the United States District Court for the District of Oregon in the Portland Division.

DATED this 17th day of September, 2020.

CHOCK BARHOUM LLP



John R. Barhoum, OSB No. 045150
Email: john.barhoum@chockbarhoum.com
Jessica Lancaster, OSB No. 134151
Email: jessica.lancaster@chockbarhoum.com
Attorneys for Defendant Walmart Inc.

John Barhoum, OSB No. 045150

Email: john.barhoum@chockbarhoum.com

Jessica Lancaster, OSB No. 134151

Email: jessica.lancaster@chockbarhoum.com

Chock Barhoum LLP

121 SW Morrison St., Suite 500

Portland, OR 97204

Telephone: 503.223.3000

Attorneys for Defendant Walmart, Inc.

UNITED STATES DISTRICT COURT
DISTRICT OF OREGON
PORTLAND DIVISION

CANDICE LOGAN, an individual, and
SHANNON HEIDELBERG, an
individual,

Case No. 20-cv-1617

Plaintiffs,

CERTIFICATE OF SERVICE

v.

WALMART INC., a Delaware
corporation, and JANE DOE, an
individual,

Defendants.

I hereby certify that on the 17th day of September, 2020, I will electronically file the foregoing with the Clerk of the Court using the CM/ECF system, which will then send a notification of such filing to all registered individuals. Additionally, I hereby certify that a true copy of the foregoing **DEFENDANT'S NOTICE OF REMOVAL** was served as stated below on:

///

Gregory Kafoury
Kafoury & McDougal
411 SW 2nd Avenue, Suite 200
Portland, OR 97204
Attorneys for Plaintiff

- ☐ By hand delivery
- ☐ By first-class mail*
- ☐ By overnight mail
- ☐ By facsimile transmission:
Fax #: (503) 224-2673
- ☒ By e-mail:
kafoury@kafourymcdougal.com
- ☒ By U.S. District Court CM/ECF e-filing
service to registered parties

*With first-class postage prepaid and deposited in Portland, Oregon.

DATED this 17th day of September, 2020.

CHOCK BARHOUM LLP



John R. Barhoum, OSB No. 045150
Email: john.barhoum@chockbarhoum.com
Jessica Lancaster, OSB No. 134151
Email: jessica.lancaster@chockbarhoum.com
Attorneys for Defendant Walmart Inc.